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## VIA ELECTRONIC FILING (ECFS)

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

Notice of *Ex Parte* Presentations: WT Docket 19-348  
Facilitating Shared Use in the 3.1-3.55 GHz Band

Dear Ms. Dortch:

On September 23, 2020, David Siddall, Washington Counsel to ARRL, The national association for Amateur Radio (“ARRL”) met separately by telephone with each of the following legal advisors: Sean Spivey, Wireless and International Advisor to Chairman Pai; Will Adams, Wireless Legal Advisor to Commissioner Carr; and William Davenport, Chief of Staff and Senior Legal Advisor for Wireless and International to Commissioner Geoffrey Starks. In each conversation we discussed the draft Report and Order (“R&O”) and Further Notice of Proposed Rulemaking (“FNPRM”) in the above-referenced proceeding.<sup>1</sup> The discussion during each meeting was consistent with the Comments filed by ARRL earlier in this proceeding.<sup>2</sup>

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<sup>1</sup> *Facilitating Shared Use of the 3.1-3.55 GHz Band*, Draft Report and Order and Further Notice of Proposed Rulemaking, WT Docket No. 19-348, FCC-CIRC2009-01 (Sept. 9, 2020).

<sup>2</sup> Comments of ARRL, The national association for Amateur Radio, submitted in WT Docket No. 19-348 (dated Feb. 21, 2020).

The ARRL opposes deletion of the Amateur secondary allocation at 3.3-3.5 GHz in the Table of Frequency Allocations.<sup>3</sup> Continued secondary status for Amateur Radio does not, and will not, impair or devalue use of this spectrum by any primary licensee intending to provide 5G or other service.

The secondary allocation requires that amateur stations using the 3.3-3.5 GHz spectrum must not cause harmful interference to, and must accept interference from, all primary users.<sup>4</sup> Amateur Radio operators using these bands are technically proficient and have a long history of sharing with primary users in this and other bands without causing interference. Although we expect more intensive use by non-federal primary licensees in the 3.45-3.5 GHz portion of the secondary band, as well as eventually in the spectrum below that, continued amateur operations on the same secondary basis as they are conducted today are feasible.

Over 300 individual radio amateurs and clubs submitted comments in this proceeding opposed to deleting secondary status. No commenter offered reasons for deleting amateur secondary status. Statements that the spectrum should be cleared of all secondary users do not address the fact that secondary status preserves the ability of new primary licensees to use the spectrum at any time for any purpose. There is no diminution or devaluation caused secondary uses.

Amateur secondary uses are analogous to experimental uses under the Commission's Part 5 regulations. Both have the identical obligation to not cause interference to primary users. There is precedent in the Amateur rules for a notification requirement if such might be deemed necessary.<sup>5</sup>

We also addressed two issues in the draft FNPRM. There is no basis upon which to consider using 3.4 GHz as a band edge for amateur secondary uses given that the band 3.3-3.45 GHz is not subject to change as a result of the current proceeding. Amateurs employ signal powers that are orders of magnitude below those generally used by federal radar and other users. In any event, as a secondary user, all primary users are protected throughout the 3.3-3.5 GHz band.

Finally, the draft FNPRM suggests that amateurs vacate the spectrum when the first licenses are issued. For the reasons stated above, continued operation should be permitted until and unless an actual potential for interference exists. The Commission should not intentionally leave the spectrum vacant and unused -- wasting the public resource -- when radio amateurs can use some portion of it in some geographic areas for the public benefit with no detriment to any other licensee. Such a decision would be counter to the very purposes of this proceeding to use spectrum productively and

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<sup>3</sup> 47 C.F.R. § 2.106.

<sup>4</sup> This obligation derives from secondary allocational status, 47 C.F.R. § 2.106; and also is explicitly stated in the Commission's regulations governing amateur radio operation at 47 C.F.R. § 97.303(b): "Amateur stations transmitting in the ... 9 cm band ... must not cause harmful interference to, and must accept interference from, [primary licensees]."

<sup>5</sup> See 47 C.F.R. Part 97.303(g).

efficiently for the public benefit.

ARRL respectfully requested that the amateur secondary allocation for 3.3-3.5 GHz continue without change for the reasons stated above. Alternatively, should the Commission conclude that additional consideration is needed (and we do not think that it is), the issue could be moved to the FNPRM.

Pursuant to Section 1.1206 of the Commission's Rules, this letter is being electronically filed in the above-referenced docket and a copy e-mailed to each legal advisor. Please refer any questions to David Siddall at the above address and phone number.

Respectfully submitted,

A handwritten signature in blue ink that reads "DR Siddall". The initials "DR" are written in a stylized, cursive font, followed by the name "Siddall" in a more legible cursive script.

David R. Siddall  
ARRL Washington Counsel

cc: C. Sean Spivey, Office of the Chairman  
Will Adams, Office of Commissioner Carr  
William Davenport, Office of Commissioner Starks